**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPEAL NO.: TBD

In re Patent Application of:

Rich Robinson, et al.

Application No.: 09/728,785

Filed: November 30, 2000

For: Metadata Internet Platform For
      Enabling Customization Of Tags In
      Digital Images

Mail Stop: Appeal Brief - Patents

Group Art Unit: 2178

Examiner: Gregory J. Vaughn

Confirmation No.: 2704

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APPEAL BRIEF

Mail Stop: Appeal Brief - Patents
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I. REAL PARTY IN INTEREST

Appellant respectfully submits that FotoMedia Technologies, LLC is the real party in interest.

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II. RELATED APPEALS AND INTERFERENCES

Appellant states that no such proceedings exist.

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III. STATUS OF CLAIMS

Claims 1-32 are pending in the present application, of which claims 1, 10, 16, and 25 are presented in independent form. Claims 1-32 stand finally rejected. Accordingly, claims 1-32 are on appeal and all applied rejections concerning those claims are herein being appealed.

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IV. STATUS OF AMENDMENT

     Appellant filed an amendment after final rejection on February 23, 2006, responding to, among other things, an indefiniteness rejection made under 35 U.S.C. § 112, second paragraph, recited on page 4 of a second final Office Action (paper 120) mailed December 23, 2005. Appellant amended claims 1 and 10 to overcome the indefiniteness rejection. In an Advisory Action (paper 150) mailed on March 15, 2006, the Examiner entered the amendments to claims 1 and 10 and withdrew the indefiniteness rejection. The claim amendments, as entered by the Examiner, to overcome the indefiniteness rejections raised in the second final Office Action are reflected in the listing of claims provided in Appendix A, attached hereto.

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V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides methods, a computer readable medium containing program instructions, and a system for customizing tags in digital images captured with an image capture device that stores the digital images in image files, each image file including one or more images tags, each having a corresponding first pre-defined function.

The method of independent claim 1, the computer readable medium of independent claim 10, and the system of independent claim 16 include storing a key ID and a definition on a server in a network. The stored definition is for altering the corresponding first pre-defined function of at least one of the one or more image tags to create one or more custom tags for one or more of the image files. Each custom tag provides a second pre-defined function that is different from the corresponding first pre-defined function. A plurality of image files is received over the network. Each of the image files includes image data, the key ID, and the one or more custom tags containing data. The corresponding stored definition is used to extract the data from the one or more custom tags to make the data available to a user along with the image data.

The method of claim 25 defines a method for customizing metadata tags in digital images captured with an image capture device that stores the digital images in image files. The method includes storing a metadata definition of a custom tag on a server in a network. The metadata definition, having been received from a developer over the network, is for altering a first function of a metadata tag of an image file to create the custom tag for the image file. The custom tag has a second function different from the first function. The method also includes associating a key ID with the metadata definition. The key ID is provided to the developer so that the developer can assign the key ID to a camera application to store data and the key ID into the custom tag of the image file on the image capture device. The image file is received at the server over the network, and includes image data, the custom tag, the key ID, and the data associated with the custom tag. The image file is automatically recognized by the key ID. Using the metadata definition

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associated with the key ID, data is extracted from the custom tag to make the data available to a user along with the image data.

Referring to FIG. 1, the metadata Internet platform 10 of the present invention provides a method and system for creating custom tags 68 in digital images that eliminates the need for a developer to create a specialized web or PC application to make use of the custom tags 68. According to the present invention, a gateway server 18 allows developers 28 to enter a metadata definition 32 for the custom tags 68 that a particular camera application 22 will use (specification, page 8. lines 1-6).

A key ID 30 is then assigned to that application 22, and the application 22, once run on the camera 14, writes the key ID 30 and data into the custom tags 68 during image capture. When the image files 50 are transferred from the camera 14 to the gateway server 18, the gateway server 18 automatically recognizes the image files 50 by the embedded key IDs 30 and uses the corresponding metadata definition 32 to extract the data from the custom tags 68 to make the data available for a user 24 (specification, page 8 lines 6-12).

By allowing multiple developers 28 to store metadata 32 defining custom tags 68 for different camera applications 22 on the gateway server 18, such that images uploaded to the gateway server 18 are automatically recognized by the key IDs 30, the metadata Internet platform 10 eliminates the need for developers 28 to write their own web applications to recognize the custom tags 68. In addition, the key IDs 30 give the same gateway server 18 the ability to recognize and extract custom data from a plurality of different cameras 14 and camera applications 22 (specification, page 8 lines 13-19).

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 7-10, 16 and 22-24, of which claims 1, 10, and 16, are presented in independent form, stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,445,460 to Pavley.

Claims 2-3, 11, 12, 17, 18, and 25-29, of which claim 25 is presented in independent form, stand finally rejected under 35 U.S.C. § 103(a) as being obvious over Pavley in view of U.S. Patent No. 6,581,094 to Gao.

Claims 4-6, 13-15, 19-21, and 30-32 stand rejected under 35 U.S.C. § 103(a) as being obvious over Pavley and Gao in view of U.S. Patent No. 6,583,799 to Manolis et al. ("Manolis").

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VIII. ARGUMENTS

A. Summary of the Applied Rejections

In the Advisory Action (paper 150) mailed on March 15, 2006, the Examiner stated:

> The Request for Reconsideration has been considered but does not place the
> application in condition for allowance because the cited prior art of record
> discloses the claimed invention. In response to applicant's argument that the
> references fail to show certain features of applicant's invention, it is noted that
> the features upon which applicant relies (i.e., "a custom tag having a second
> pre-defined function" page 16, last paragraph) are not recited in the rejected
> claim(s). Although the claims are interpreted in light of the specification,
> limitations from the specification are not read into the claims. See In re Van
> Geuns, 888 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

> Applicant also argues "Pavley does not disclose storing a definition that
> causes an attribute, such as the archiving attribute, to have a second
> function, as claim 1 requires" (page 17, last paragraph). The examiner
> respectfully disagrees. Pavley discloses the use of rule sets wherein the
> multiple rule sets determine different (i.e. first, second, third etc.) functionality
> of the image tags. Pavley recites: "With a common operating environment, an
> image file 1104 that includes file attribute designations in accordance with the
> present invention is successfully and automatically handled within the
> photosystem environment based on established rule sets" (column 5, lines
> 56-60) (compare "second function" to "rule sets").

> In response to applicant's argument that the references fail to show certain
> features of applicant's invention, it is noted that the features upon which
> applicant relies (i.e., "the respective functions associated with the file
> attributes are altered when the file attributes are associated with an image
> file" (page 18. last paragraph - emphasis added) are not recited in the
> rejected claim(s). Although the claims are interpreted in light of the
> specification, limitations from the specification are not read into the claims.
> See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

> Applicant further argues that "Pavley also fails to disclose storing a key ID
> and a definition for altering a first predefined function of an image tag" (page
> 18, second paragraph) and Pavley's header 805 does not define the altering
> of a first predefined function of an image tag" (page 18, third paragraph). The
> examiner respectfully disagrees, Pavley discloses a header 805 that
> "preferably includes information that identifies and describes the various
> contents of the image file". Note that the header includes at least two
> components, information that identifies (the key ID) and information that

describes (the function). As described previously, Pavley discloses the use of more than one rule set, hence more than one definition/function for a given tag.

Independent Claims 1, 10, and 16

In the second final Office Action (paper 120), the Examiner rejected claims 1, 7-10, 16, and 22-24 under 35 U.S.C. 102(e) as being anticipated by Pavley. In finally rejecting independent claims 1, 10, and 16, the Examiner stated:

Regarding independent claim 1, Pavley discloses a digital imaging system that employees an image capture device and a server on a network: Pavley recites: "With the present invention, file attributes are used in order to synchronize file handling in a photosystem environment, i.e., between a digital camera 110 and an externally connected computer system, as represented in FIG. 6. For purposes of illustration, camera 110 is shown connected with a desk-top computer system 1100 and an Internet web server computer processing system 1102" (column 5, lines 46-52). Pavley discloses each image file having one or more image tags In Figure 4 at reference sign 825. Pavley discloses the image tags having a predefined function in Figure 5 at reference signs 710, 715, 720 and 735 (shown as "Capture Information Tags", "User Information Tags", "Product Tags" etc.).

Pavley discloses storing a key ID and a definition of the one or more tags. Pavley recites: "FIG. 4 illustrates a diagram of one embodiment for an image file 835. Image file 835 includes a header 805, image data 810, a screennail 815, and a thumbnail 820, and image tags 825. Header 805 preferably includes information that identifies and describes the various contents of image file 835. Image data 810 contains actual captured image data" (column 4, lines 44-50).

Pavley discloses transferring the image file with tags (as described above in reference to Figure 4) for storage to an Internet server in Figure 6 at reference sign 1102.

Pavley discloses the tag definitions having a second functionality. Pavley recites: "With a common operating environment, an image file 1104 that includes file attribute designations in accordance with the present invention is successfully and automatically handled within the photosystem environment based on established rule sets" (column 5, lines 56-60) (compare "second function" to "rule sets").

Pavley discloses altering the function of the image tags. Pavley provides an example where altering the function of an archive tag for the purpose of

saving time. Pavley recites: "For example, when the priority is to save time, the system 1100 determines whether an archive attribute is set for an image file. When not set, the system 1100 appropriately performs the action of copying the file from the camera 110 and marking the file with the archive attribute" (column 6, lines 35-41).

Pavley discloses in Figure 7, at reference sign 1208 a plurality of image files (shown as "Another Image File?"). Pavley further recites; "FIG. 7 illustrates a flow diagram of an overall process for automatic image file handling in accordance with the present invention, The process initiates with selection of a desired rule set (step 1200). The rule set may be set up and selected in the camera 110, the desktop system 1100, and/or the sever system 1102. A system's file manager program supports application of a rule document on a list of files by opening each image file and examining the file attribute(s) associated with an image file (step 1202)" (column 6, lines 24-33).

Regarding independent claims 10 and 16, the claims are directed toward a computer readable medium or a system for the method of claim 1, and are rejected using the same rationale.

Independent Claim 25

In the second final Office Action, the Examiner finally rejected claims 2, 3, 11, 12, 17, 18, and 25-29 under 35 U.S.C. 103(a) as being obvious in view of Pavley and Gao. In finally rejecting independent claim 25, the Examiner stated:

Regarding independent claim 25, the claim is directed to substantially the same subject matter as claims 1-3 combined, and is rejected using the same rationale.

Regarding dependent claims 2 and 3, Pavley discloses an image capture device that stores digital images in image files, where the image files contain an image identifier and image data stored in tags, the image files received over a network and assessable by a user as described above. Pavley fails to disclose receiving tag definitions over a network (claim 2) that enable the development of a camera application that uses the custom tags and a key ID (claim 3). Gao teaches the development of custom camera applications based upon device specific criteria. Gar, recites: "the following code defines profile attributes 124. The code defines attributes for a number of devices, including a printer, projector, camera" (column 7, lines 57-58, emphasis added). Gao also recites: 'The memory 48 also stores device vendor applications 54. The device vendor applications 54 allow a vendor of digital devices to supply updates and enhancements to digital devices within the

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networked environment 20" (column 2, line 67 to column 3, line 3). Gao
defines the control of vendor applications as: "The memory 72 also stores
Universal Device Descriptor (UDD) files 76. The UDD files 76 may include a
UDD file for the server 60 and UDD files for other digital devices within the
networked environment 20" (column 3, lines 29-32) and "In a preferred
embodiment of the invention, the UDD files are implemented as XML
documents" (column 4, lines 13-15) where the XML uses: "Document Type
Definition (DTD) is a set of syntax rules for tags. It specifies what tags can be
used." (column 3, lines 27-28).

Therefore, it would have been obvious to one of ordinary skill in the art, at the
time the invention was made, to combine the image files with custom tags of
Pavley with the device specific application development of Gao in order to
provide "an input link from the digital camera's UDD, which has an output link
to the storage device" (Gao, column 15, lines 35-36).

B. The Cited Prior Art

Pavley teaches a method and system for providing automatic image file handling
with a digital image capture device (see Abstract). As discussed in prior amendments,
Pavley discloses designating image files with a file attribute (i.e., a read-only file attribute, a
hidden file attribute, an archive file attribute, or a system file attribute). In addition to file
attributes, Pavley further discloses image tags that are associated with image files. The
image tags include capture information tags, user tags, product tags, and automatic
category tags. Capture information tags preserve command settings at the moment an
image is captured, user tags include user-specified labels, product tags contain
manufacturing information, and automatic category tags includes information based on an
analysis of an image (column 4, line 43 through column 5, line 24). These tags are separate
and distinct from the file attributes listed above. Moreover, the file attributes each
correspond to a single "function" that either occurs or does not occur based on the marking
of the respective file attribute (e.g., whether the attribute is marked to set and is assigned a
value of "1," or is unmarked or unset and is assigned a value of "0").

Among these file attributes, Pavley discloses using an archive attribute to mark (or
associate) image files once the image files have been copied from a camera to a computer
system. If the attribute is not set, the system copies the file from the camera and the sets

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the archive attribute. If the archive attribute is set, the system proceeds to the next image file. This marking does not alter a function of the archive file attribute itself. The pre-defined function of the archiving attribute is still the same, i.e., archiving the image file if the attribute is not set, or not archiving the image file if the archiving attribute is set. Importantly, Pavley's system does not provide for the archiving attribute to be used by the camera (or a server in communication with the camera) for a function other than archiving the image file, as the subject matter defined by Appellant's claims provides for.

C. The Independent Claims are Allowable Over The Cited Prior Art

Appellant respectfully submits that Pavley fails to teach or suggest each and every element of the independent claims. In particular, Pavley fails to teach or suggest the recited features of extracting data from one or more custom tags; a key ID and corresponding definition stored on a server for altering a first pre-defined function of an image tag; and a definition, stored on a server and corresponding to a key ID included in a received image file, used to extract data from one or more custom tags included in the image file to create one or more custom tags, each custom tag having a second pre-defined function that is different from the corresponding first pre-defined function associated with the tag prior to extracting the data according to the stored definition.

Extracting data

Nowhere in the record does the Office address, much less provide support for, whether Pavley describes the specific recitation in the independent claims of automatically recognizing image files by a key ID and using a definition stored on a server corresponding to the key ID to <u>extract data</u> from one or more custom tags (emphasis added). Instead, the Office only states that Pavley's server describes providing for automatic image file handling for a digital image capture device (see, e.g., paper 20, page 13; paper 110, page 6; paper 120, page 14; and paper 150, page 2) or that Pavley stores raw image data in a frame buffer for display on an LCD screen (see paper 20, page 13). The claimed invention is not directed to image file handling or the displaying of raw image data, rather, it is directed to the extraction

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of data from one or more custom tags. Appellant respectfully asserts that the record is silent regarding this feature because the feature is neither explicitly nor inherently described by Pavley.

As set forth in MPEP § 2131, "to anticipate a claim, the reference must teach every element of the claim." The various rejections of independent claims 1, 10, 16, and 25 during prosecution do not establish where Pavley teaches automatically recognizing the image files by the key ID and using the corresponding stored definition to extract the data from the one or more custom tags, as recited in the rejected claims. Accordingly, Pavley fails to teach every element of the independent claims. Appellant argued this point in the Pre-Appeal Brief Request for Review, filed on April 24, 2006, further arguing that the record did not provide an appropriate basis to proceed with this Appeal because the Office had failed to point out where the cited document described all of the features of the recited claims as § 102 of the Patent Laws requires. The Notice of Panel Decision, mailed October 23, 2006, was silent regarding this issue of law.

Accordingly, Appellant believes at least that prosecution should be reopened to further develop the record to establish where the Office believes the cited documents describe the feature "extract the data from the one or more custom tags," as recited in each of the rejected independent claims, but moreover Appellant contends that the record already makes clear that the cited documents do not describe this absent feature, and considers the claims to be allowable over the cited documents for at least this reason.

Key ID and Definition

Further, Pavley fails to teach the recited key ID and corresponding definition stored on a server for altering a first pre-defined function of an image tag.

In the first final Office Action (paper 20), mailed January 12, 2005, the Examiner asserts that the recited key ID reads on a "number of the image" in Pavley's arrangement (see paper 20, page 12) and that the corresponding recited definition apparently reads on Pavley's rule set (see paper 20, page 5—although no relation between the claimed features and the cited portion is provided in the text of the Action. The second non-final and final Office Actions

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(papers 110 and 120, respectively) mailed after the filing of Appellant's Request for Continued Examination in this matter appear to indicate that both the recited key ID and corresponding definition are stored in Pavley's image file (see paper 110, page 5, and paper 120, page 6.) Yet in these same actions, the Examiner also appears to assert that the recited corresponding definition reads on the rule sets stored on Pavley's server 1100.

The later-issued Advisory Action (paper 150) then states that the header of Pavley's image preferably includes information that identifies (key ID) and describes (definition) the various contents of image file 835 (see paper 150, page 2, last paragraph.) Moreover, a second Interview Summary (paper 155) prepared by the Office states that Pavley's rule set, stored on the server 1100 and embodied as a rule document, would inherently include rules and rule identifiers (see paper 155)—apparently now asserting that Appellant's key ID reads on such an inherent rule identifier.

The record is thus confusing (at least to Appellant) as to what elements, if any, of Pavley's arrangement the recited key ID and definition are asserted to read upon.

Regardless of the confusing record, it should nevertheless be clear that if the recited definition is asserted to be included in the header of Pavley's image file (as papers 110, 120, and 150 appear to assert), Pavley does not reach the claimed invention, as the independent claims require that the definition and its corresponding key ID be stored on the server. If Appellant's key ID were said to read on Pavley's image number, or any other information included in the header of the image file, Pavley would not reach the claimed invention, as a definition file corresponding to such an image number or other header information for altering the pre-defined function of an image tag to create a custom tag having a second function is not stored on the server and used to extract data from one or more custom tags. If an inherently described rule identifier is said to anticipate Appellant's key ID, then such a rule identifier must also be found in a received image file as a key ID to reach the claimed invention. The Appellant respectfully disagrees that Pavley inherently describes any such rule identifier and, in any event, asserts that Pavley does not disclose storing a rule identifier corresponding to one of its rule sets in the header of its image files.

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Indeed, nowhere does Pavley describe the cooperation of elements of Appellant's key ID and corresponding definition stored on a server for altering the pre-defined function of an image tag to create a custom tag having a second function and used to extract data from one or more custom tags. Fig. 7 of Pavley illustrates the manner in which Pavley's rule set functions. Pavley describes at column 6, lines 25-32, that a rule document is selected in step 1200. Importantly, Pavley does not describe that the rule set is selected based on a key ID included in any images to which rule set is to be applied. Instead, the selected rule set is applied to all images, regardless of the information they may contain.

Once the rule set is selected, Pavley describes that the file attribute(s) of the images to which the rule set is being applied are is/are examined at step 1202. Since the file attribute is examined after the rule document has been selected, the file attribute disclosed in Pavley cannot function as the key ID of the instant claims. The independent claims require that the image files be recognized by the key ID and the corresponding stored definition be used to extract data from the custom tags of the image file according to the definition. As such, Pavley cannot be said to disclose a key ID as claimed in Appellant's independent claims.

Nor can Pavley be said to disclose a definition stored on a server corresponding to the key ID. The independent claims require that the definition stored on the server correspond to the key ID included in the image file. Pavley's selected rule set is applied to any image processed by its server 1100, regardless of any information included in the image. There is thus no correspondence between the Pavley's selected rule set and a key ID included in the processed image, as the independent claims require. Accordingly, Pavley fails to teach Appellant's key ID and a corresponding definition stored on the server for extracting data from one or more custom tags.

Second Function

The independent claims further require that a definition, stored on a server and corresponding to a key ID included in a received image file, be used to extract data from one or more custom tags included in the image file to create one or more custom tags, each

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custom tag having a second pre-defined function that is different from the corresponding first pre-defined function associated with the tag prior to extracting the data according to the stored definition. Pavley does not disclose storing a definition that causes a tag to have a second pre-defined function, as independent claims 1, 10, 16, and 25 require. Instead, Pavley merely describes the conventional altering of values of a file attribute that has a single, fixed, meaning or function.

In particular, Pavley discloses designating image files with a file attribute (i.e., a read only file attribute, a hidden file attribute, an archive file attribute, or a system file attribute). The read only file attribute marks an image file as one that cannot be changed, the hidden file attribute provides a privacy feature, the archive attribute designates an image file that has undergone a backup procedure, and the system file attribute designates an image file that affects a system's operation (column 5, lines 25 through 45). It is Pavley's archive attribute that the Office has relied upon in rejecting the independent claims.

In addition to file attributes, Pavley further discloses image tags that are associated with image files. The image tags include capture information tags, user tags, product tags, and automatic category tags. Capture information tags preserve command settings at the moment an image is captured, user tags include user specified labels, product tags contain manufacturing information, and automatic category tags includes information based on an analysis of an image (column 4, line 43 through column 5, line 24).

Pavley fails to disclose altering a first pre-defined function of any of the described attributes or image tags to create a custom tag having a second pre-defined function that is different from the first pre-defined function associated with the attributes or image tags, as required by the independent claims. While Pavley discloses associating attributes and image tags (i.e., capture information tags, user tags, product tags, and automatic category tags) with an image, Pavley fails to disclose altering any of the functions (discussed above) of its attributes or image tags.

On pages 6 and 7 of the second final Office Action (paper 120), the Examiner cites column 6, lines 35-41, of Pavley as disclosing altering a function of a tag. In particular, the Examiner states that:

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> Pavley discloses altering the function of the image tags. Pavley provides an
> example where altering the function of an archive tag for the purpose of
> saving time. Pavley recites: "For example, when the priority is to save time,
> the system 1100 determines whether an archive attribute is set for an image
> file. When not set, the system 1100 appropriately performs the action of
> copying the file from the camera 110 and marking the file with the archive
> attribute" (column 6, lines 35-41).

In the cited portion, however, Pavley merely discloses marking (or associating) image files
with an archive attribute once the image files have been copied from a camera to a
computer system.

While Pavley discloses marking an image file with different file attributes, such
marking does not alter a function of the file attributes themselves. That is, the functions
associated with the read only file attribute (to mark an image file as one that cannot be
changed), the hidden file attribute (to provide a privacy feature), and the system file attribute
(to designate an image file that affects a system's operation) are not altered when the file
attributes associated with an image file are changed. In particular, the function associated
with the archive attribute (to designate an image file that has undergone a backup
procedure) that is relied upon by the Examiner in the above-cited passage is not changed
when the archive attribute is set. Pavley's system only allows the archive attribute to be
used for determining whether an image file has undergone a backup procedure. The
archive attribute cannot be used for a second function, different from the archiving function,
for example, determining whether the image is to be forwarded to a backup server when
processed by the server.

The Examiner continues his argument on page 7 of the second final Office Action
(paper 120), stating:

> Pavley discloses in Figure 7, at reference sign 1208 a plurality of image files
> (shown as "Another Image File?"). Pavley further recites; "FIG. 7 illustrates a
> flow diagram of an overall process for automatic image file handling in
> accordance with the present invention, The process initiates with selection of
> a desired rule set (step 1200). The rule set may be <u>set up and selected</u> in the
> camera 110, the desktop system 1100, and/or the sever system 1102. A
> system's file manager program supports <u>application of</u> a rule document on a
> list of files by opening each image file and examining the file attribute(s)

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associated with an image file (step 1202)" (column 6, lines 24-33). (emphasis
added).

As made clear by Pavley in the emphasized portion of the above-cited passage, Pavley's
file manager program supports <u>application of</u> a rule document on a list of files by opening
each image file and examining the file attribute(s) associated with an image file. Pavley's
system does not support the <u>selection of</u> that rule document based on the examined file
attribute(s), as the independent claims require. Instead, the rule document is <u>set up and</u>
<u>selected</u> prior to examining the file attribute(s) of the image files. The rule set(s) included in
the already-selected rule document are applied to any images processed, regardless of any
information included therein (e.g., a key ID), using values of the image file attributes, such
as the archive attribute.

But as stated above, the rule document does not change the function of the archive
attribute (or any attribute or tag), as the claims require. The pre-defined function of the
archive attribute itself is never altered under Pavley—just the value of the attribute can be
altered. This is precisely the conventional arrangement described by Appellant at page 7,
lines 1-5 of the application, as noted above and repeated here for convenience, that
"[a]lthough the user 24 may change the data stored in a particular user tag 66, <u>the user 24</u>
<u>may not change the function of that tag 66</u>". (emphasis added). Thus, Pavley fails to
disclose altering a first pre-defined function of an image tag to create a custom tag having a
second pre-defined function that is different from the first pre-defined function, as required
by claims 1, 10, 16, and 25.

D. The Dependent Claims are Allowable Over The Cited Prior Art

Dependent claims 2, 3, 11, 12, 17, 18 and 26-29 were rejected under 35 U.S.C.
§ 103(a) as being obvious over Pavley and Gao. Dependent claims 4-6, 13-15, 19-21 and
30-32 were rejected under 35 U.S.C. § 103(a) as being obvious over Pavley and Gao, in
further view of Manolis.

Gao and Manolis (either alone or in combination) fail to cure the defect of Pavley for
failing to disclose the recited key ID and corresponding definition stored on a server for

altering a first pre-defined function of an image tag. Gao and Manolis (either alone or in combination) also fail to cure the defect of Pavley for failing to disclose altering a first pre-defined function of an image tag to create a custom tag having a second pre-defined function that is different from the first pre-defined function. Consequently, any combination of Pavley, Gao and Manolis cannot render claims 1, 10, 16, or 25 obvious for the same reasons stated above. Accordingly, dependent claims 2-9, 11-15, 17-24, and 26-32 are considered allowable for at least the same reasons as their respective base claims.

E. Summary of Arguments

For the reasons set forth above, Appellant respectfully submits that claims 1-32 are allowable over the cited documents. Appellant respectfully requests that the final rejections of claims 1-32 be reversed.

Note: For convenience of detachment without disturbing the integrity of the remainder of pages of this Appeal Brief, Appellant's APPENDICES A-C are attached on separate sheets following the signatory portion of this Appeal Brief.

The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, associated with the filing of this paper to Deposit Account No. 50-3512.

Respectfully submitted,

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APPENDIX A

CLAIMS

1. (Previously Presented) A method for customizing tags in digital images captured with an image capture device that stores the digital images in image files, each image file including one or more images tags each having a corresponding first pre-defined function, the method comprising:

    (a)   storing a key ID and a definition on a server in a network, the definition for altering the corresponding first pre-defined function of at least one of the one or more image tags to create one or more custom tags for one or more of the image files, each custom tag having a second function that is different from the corresponding first pre-defined function;

    (b)   receiving a plurality of the image files at the server over the network, wherein each of the image files includes image data, the key ID, and the one or more custom tags containing data; and

    (c)   automatically recognizing the image files by the key ID and using the corresponding stored definition to extract the data from the one or more custom tags to make the data available to a user along with the image data.

2. (Previously Presented) The method of claim **Error! Reference source not found.**, wherein (a) further includes:

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(i)   receiving the definition of the one or more custom tags from a developer over

the network.

3. (Previously Presented) The method of claim 2, wherein (a) further includes:

(ii)   assigning the key ID in response to receiving the definition of the one or more

custom tags to enable the developer to incorporate the key ID into a camera

application that is to be run on the image capture device for generating the

image files.

4. (Previously Presented) The method of claim 3, wherein (b) further includes:

(i)   extracting the image data and the one or more custom tags from each image

file and storing the image data and the one or more custom tags in at least

one database.

5. (Previously Presented) The method of claim 4, wherein (c) further includes:

(i)   allowing a user to log onto the server using a user ID to make a request to

view the image files received at the server.

6. (Previously Presented) The method of claim 5, wherein (c) further includes:

(ii)   in response to the user logging in, retrieving the image data and the one or

more custom tags using the user ID,

(iii) using the key ID to retrieve the definition of the one or more custom tags, and

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      (iv)   dynamically building and displaying web pages containing the retrieved image data and the one or more custom tags based on the retrieved definition and taking any actions specified in the retrieved definition with respect to the one or more custom tags.

7. (Previously Presented) The method of claim **Error! Reference source not found.**, wherein (b) further includes:

      (i)   extracting the one or more custom tags from the image files when image files are received at the server.

8. (Previously Presented) The method of claim **Error! Reference source not found.**, wherein (c) further includes:

      (i)   extracting the one or more custom tags from the image files when image files are viewed.

9. (Previously Presented) The method of claim **Error! Reference source not found.**, wherein (b) further includes:

      (i)   receiving the one or more custom tags separately from the image files.

10. (Previously Presented) A computer-readable medium containing program instructions for customizing tags in digital images captured with an image capture device that stores the

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digital images in image files, each image file including one or more images tags having a

corresponding first pre-defined function, the program instructions for:

(a)   storing a key ID and a definition on a server in a network, the definition for

altering the corresponding first pre-defined function of the one or more image

tags to create one or more custom tags for one or more of the image files,

each custom tag having a second function that is different from the

corresponding first pre-defined function;

(b)   receiving a plurality of the image files at the server over the network, wherein

each of the image files includes image data, the key ID, and the one or more

custom tags containing data; and

(c)   automatically recognizing the image files by the key ID and using the

corresponding stored definition to extract the data from the one or more

custom tags to make the data available to a user along with the image data.

11. (Previously Presented) The computer-readable medium of claim 10, wherein instruction

(a) further includes the instruction of:

(i)   receiving the definition of the one or more custom tags from a developer over

the network.

12. (Previously Presented) The computer-readable medium of claim 11, wherein instruction

(a) further includes the instruction of:

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(ii)   assigning the key ID in response to receiving the definition of the one or more

custom tags to enable the developer to incorporate the key ID into a camera

application that is to be run on the image capture device for generating the

image files.

13. (Previously Presented) The computer-readable medium of claim 12, wherein instruction

(b) further includes the instruction of:

(i)   extracting the image data and the one or more custom tags from each image

file and storing the image data and the one or more custom tags in at least

one database.

14. (Previously Presented) The computer-readable medium of claim 13, wherein instruction

(c) further includes the instruction of:

(i)   allowing a user to log onto the server using a user ID to make a request to

view the image files received at the server.

15. (Previously Presented) The computer-readable medium of claim 14, wherein instruction

(c) further includes the instructions of:

(ii)   in response to the user logging in, retrieving the image data and the one or

more custom tags using the user ID,

(iii)   using the key ID to retrieve the definition of the one or more custom tags, and

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(iv)   dynamically building and displaying web pages containing the retrieved image

data and the one or more custom tags based on the retrieved definition and

taking any actions specified in the retrieved definition with respect to the one

or more custom tags.

16. (Previously Presented) A system for customizing tags in image files produced by a

software-controlled image capture device, comprising:

a photo-service site on a network for receiving the image files from the image

capture device, each image file including one or more images tags having a corresponding

first pre-defined function, the photo-service site including,

means for storing a key ID and a definition on the photo-service site, the

definition for altering the corresponding first pre-defined function of the one or more

image tags to create one or more custom tags for one or more of the image files,

each custom tag having a second function that is different from the corresponding

first pre-defined function;

means for receiving a plurality of the image files at the photo-service site over

the network, wherein each of the image files includes image data, the key ID, and

the one or more custom tags containing data; and

means for automatically recognizing the image files by the key ID and using

the corresponding stored definition to extract the data from the one or more custom

tags to make the data available to a user along with the image data.

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17. (Previously Presented) The system of claim 16, wherein the receiving means receives

the definition of the one or more custom tags from a developer over the network.

18. (Previously Presented) The system of claim 17, wherein the photo-service site assigns

the key ID in response to receiving the definition of the one or more custom tags to enable

the developer to incorporate the key ID into a camera application that is to be run on the

image capture device for generating the image files.

19. (Previously Presented) The system of claim 18, wherein the image data and the one or

more custom tags are extracted from each image file upon receipt and stored in at least one

database.

20. (Previously Presented) The system of claim 19, wherein the photo-service site further

allows a user to log onto the photo-service site using a user ID to make a request to view

the image files received at the photo-service site.

21. (Previously Presented) The system of claim 20, wherein the photo-service site further

includes

          means for retrieving the image data and the one or more custom tags using

     the user ID in response to the user logging in,

          means for using the key ID to retrieve the definition of the one or more

     custom tags, and

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means for dynamically building and displaying a web page containing the

retrieved image data and the one or more custom tags based on the retrieved

definition and taking any actions specified in the retrieved definition with respect to

the one or more custom tags.

22. (Previously Presented) The system of claim 16, wherein the one or more custom tags

are extracted from the image files when the image files are received at the photo-service

site.

23. (Previously Presented) The system of claim 16, wherein the one or more custom tags

extracted from the image files when the image files are viewed.

24. (Previously Presented) The system of claim 16, wherein the one or more custom tags

are received separately from the image files.

25. (Previously Presented) A method for customizing metadata tags in digital images

captured with an image capture device that stores the digital images in image files, the

method comprising:

    (a)   storing a metadata definition of a custom tag on a server in a network, the

             metadata definition having been received from a developer over the network

             for altering a first function of a metadata tag of an image file to create the

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> custom tag for the image file, the custom tag having a second function
> different from the first function;
>
> (b)   associating a key ID with the metadata definition;
>
> (c)   providing the key ID to the developer so that the developer can assign the
>   key ID to a camera application to store data and the key ID into the custom
>   tag of the image file on the image capture device;
>
> (d)   receiving the image file at the server over the network, the image file
>   including image data, the custom tag, the key ID and the data associated
>   with the custom tag; and
>
> (e)   automatically recognizing the image file by the key ID and using the metadata
>   definition associated with the key ID to extract the data from the custom tag to
>   make the data available to a user along with the image data.

26. (Previously Presented) The method of claim 25, wherein (a) further includes allowing
the developer to include instructions in the metadata definition for how the data in the
custom tag should be displayed.

27. (Previously Presented) The method of claim 26, further including providing the image
file with user tags for storing user settable data.

28. (Previously Presented) The method of claim 27, further including providing the custom
tag as part of the user tags.

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29. (Previously Presented) The method of claim 28, further including providing the image

file with system tags for storing camera information.

30. (Previously Presented) The method of claim 29, wherein (d) further includes:

     (i)   extracting the image data and the custom tag from the image file and storing

           the image data and custom tag in at least one database.

31. (Previously Presented) The method of claim 30, wherein (d) further includes:

     (ii)   allowing a user to log onto the server using a user ID to make a request to

           view the image data from the image file received at the server.

32. (Previously Presented) The method of claim 31, wherein (e) further includes:

     (i)   in response to the user logging in, retrieving the image data and the custom

           tag using the user ID,

     (ii)   using the key ID to retrieve the metadata definition of the custom tag, and

     (iii)   dynamically building and displaying a web page containing the retrieved

           image data and the custom tag based on the retrieved definition and taking

           any actions specified in the retrieved definition with respect to the custom tag.

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APPENDIX B

EVIDENCE

(NONE)

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APPENDIX C

RELATED PROCEEDINGS

(NONE)